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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/571,056

03/07/2006

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EXAMINER

HAGEDORN, MICHAEL E

ART UNIT

PAPER NUMBER

4159

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DELIVERY MODE

09/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/571,056	Applicant(s) LE MANER, FRANCOIS	
	Examiner MICHAEL HAGEDORN	Art Unit 4159	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07 March 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the over molding in claim 8 and sealing means on valve element of claims 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-10 and 15 are rejected under 35 U.S.C. 103(a) as obvious over Lina et al (US Patent 5,190,192) in view of Crosnier et al (US Patent 6,932,246).

4. In Re claim 1, with reference to figure 1 below, Lina et al discloses A fluid dispenser pump comprising a pump body (4) a pump chamber (45) provided with an inlet valve (46) and with an outlet valve (110), and a piston (5) sliding in said pump body (4) so as to dispense the fluid contained in the pump chamber (45), said outlet valve (110) comprising a valve element (61) co-operating with a valve seat (53) the fluid dispenser pump being characterized in that said outlet valve (110). However, Lina et al fails to disclose an outlet valve comprising a deformable sealing means provided

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between said valve seat and said valve element, said sealing means being elastically deformed when said outlet valve is in the closed position, so as to improve sealing.

Crosnier et al, with reference to figure 3a below, does disclose an outlet valve (A) further comprising a deformable sealing means (29) provided between said valve seat (B) and said valve element (10), said sealing means (29) being elastically deformed (Column 3, lines 63-66) when said outlet valve (A) is in the closed position, so as to improve sealing. It would have been obvious to one of ordinary skill in the art to implement Crosnier's teaching into Lina's because as stated in the claim would these teachings will improve the sealing between the outlet valve and valve element.

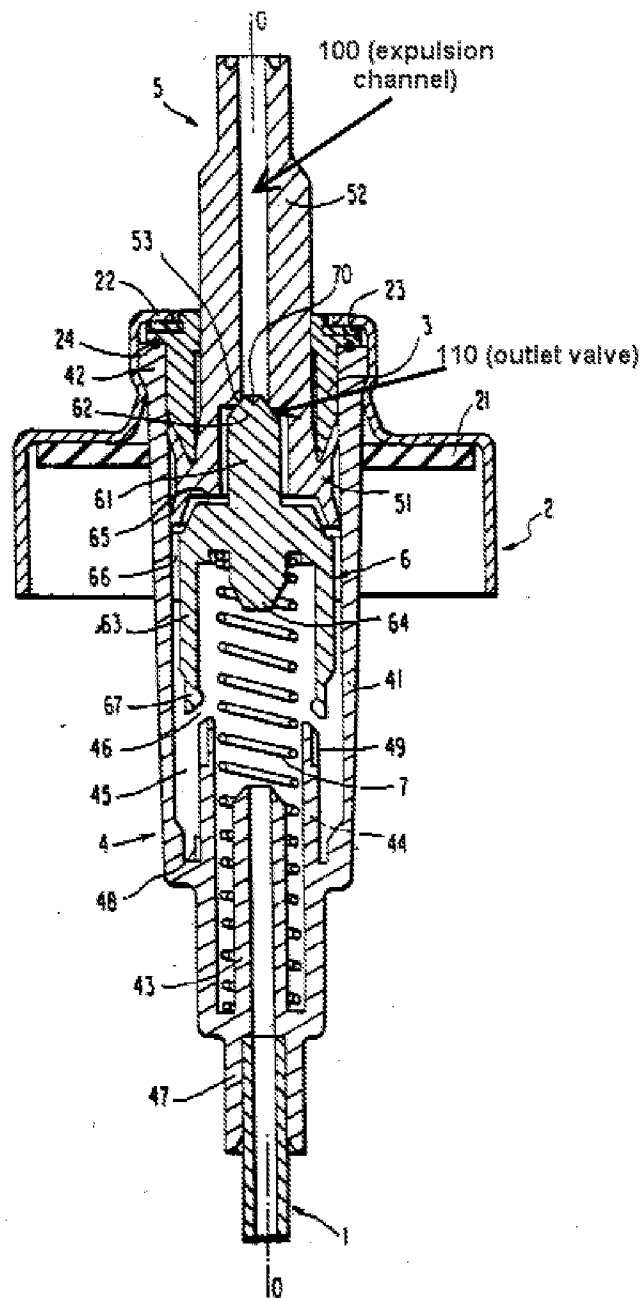


Figure 1 – Lina et al (US Patent 5,190,192)

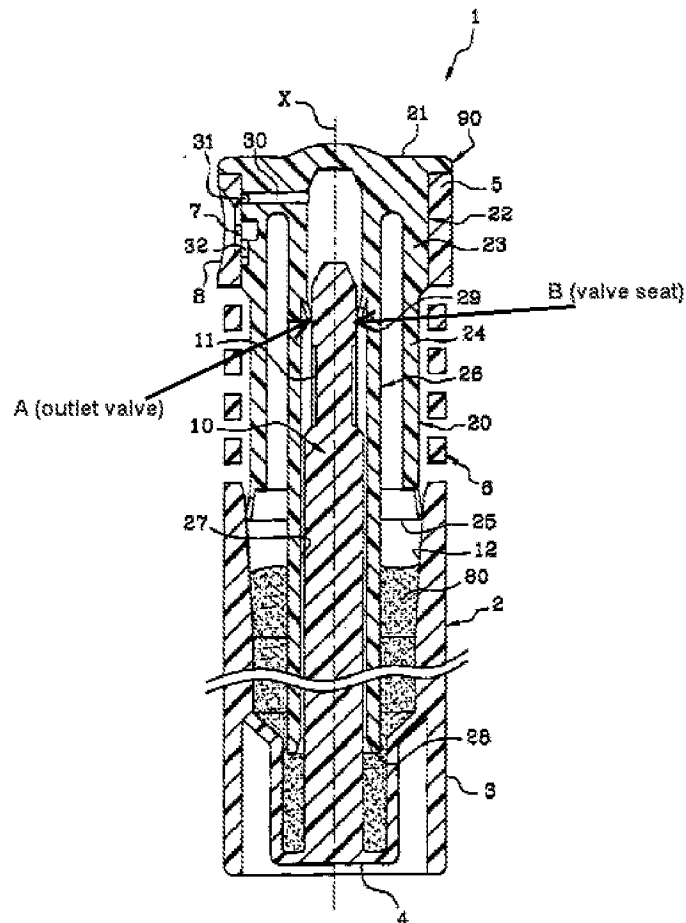


Figure 3a – Crosnier et al (US Patent 6,932,246)

5. In re claim 2, with reference to figure 1 above, Lina et al discloses a pump, in which said piston (5) is secured to an actuator rod (52), said actuator rod being hollow and defining an expulsion channel (100) for the fluid, said valve seat (53) being formed in said expulsion channel (100).

6. In re claim 3, with reference to figure 1 above, Lina et al discloses a pump in which, while the pump is being actuated, the outlet valve (4) is urged towards its closed position by a spring (7), said valve (110) being opened by the pressure of the fluid contained in the pump chamber (45).

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7. In re claim 4, Crosnier et al, with reference to figure 3a above discloses a pump in which said deformable sealing means (Column 3, lines 63-66) is formed on the valve seat (B). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pump in which said deformable sealing means is formed on the valve element, since it has been held that a mere reversal of essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

8. In re claim 5, Crosnier et al, with reference to figure 3a above, discloses a pump in which said deformable sealing means (Column 3, lines 63-66) is formed on the valve seat (B).

9. In re claim 6, the sealing means of Crosnier et al, with reference to figure 3a above comprises at least one deformable annular lip (29).

10. In re claim 7, Lima discloses a frustoconical surface (62). This surface would cooperate with the deformable annular lip of claim 6, when in the closed position (fig. 1 of Lima).

11. In re claim 8, Crosnier et al, with reference to figure 3a, above, discloses that said annular lip (29) is made by molding (column 7, lines 34-37). In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by the defined by the process, determination of patentability is based on the product itself. The

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patentability of a product, does not depend on its method of production. **In re Thorpe, 227 USPQ 964, 966 (federal Circuit 1985).**

12. In re claim 9, Crosnier et al, with reference to figure 3a above, discloses a pump, in which the valve seat (B) includes a flexible annular lip (29) co-operating with a frustoconical valve element (10), said valve element (10) being substantially rigid.

13. In re claim 10, Crosnier et al, with reference to figure 3a below, discloses a pump, in which the valve seat (B) is made out of two materials, said annular lip (29) being made out of a material that is softer than the remainder of the valve seat (B).

14. In re claim 15, with reference to figure 1 below, Lina discloses a fluid dispenser device, characterized in that it includes a pump (4).

15. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lina et al (US Patent 5,190,192) in view of Crosnier et al (US Patent 6,932,246) as applied to claims 1-10 above and in further view of Roger (US Patent 4,420,011).

16. In re claim 11, Lina has been discussed above, but doesn't disclose a pump in which said deformable sealing means comprises a deformable O-ring. However Roger, with reference to figure 4 below, discloses a pump in which said deformable sealing means comprises a deformable O-ring (83). The claim would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

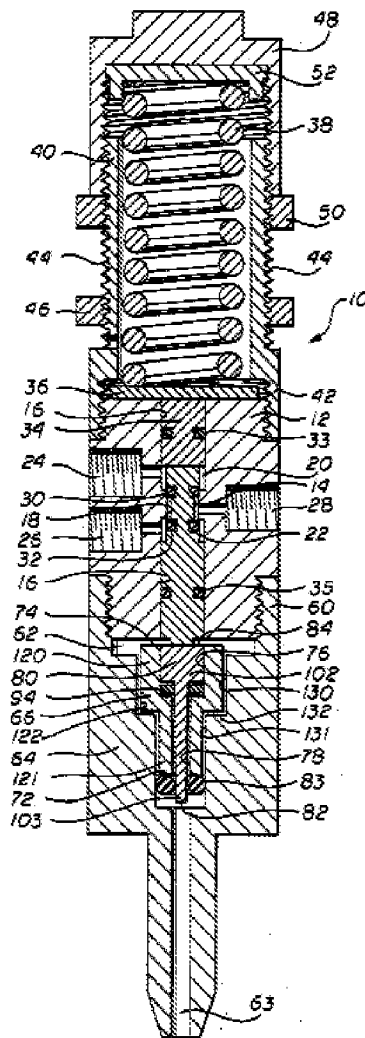


Figure 4 – Roger (US Patent 4,420,011)

17. In re claim 12, Roger with reference to figure 4 above said O-ring (83) co-operates with a frustoconical surface when the valve (103) is in the closed position. This surface would cooperate with the O-ring of claim 11, when in the closed position (Fig 1 of Lima).

18. In re claim 13, Roger, with reference to figure 4 above discloses said O-ring (83), secured by interfitting, snap-fastening, or overmolding. In accordance to MPEP 2113,

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the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by the defined by the process, determination of patentability is based on the product itself. The patentability of a product, does not depend on its method of production. **In re Thorpe, 227 USPQ 964, 966 (federal Circuit 1985).**

19. In re claim 14, Roger with reference to figure 4 above discloses the valve element (103) is substantially rigid and includes a deformable O-ring (83) co-operating with a fustoconical valve seat (82), said valve seat (82) being substantially rigid.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL HAGEDORN whose telephone number is (571)270-5705. The examiner can normally be reached on Monday thru Thursday 7:30am to 6:00pm EST / except federal holidays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571)272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Hagedorn

/George Nguyen/

Supervisory Patent Examiner, Art Unit 4159